PIL 23/2007
BEFORE
THE HON'BLE MR JUSTICE D. BISWAS, CHIEF JUSTICE(ACTING)
THE HON'BLE MR. JUSTICE H.N. SARMA
28-3-2007

Heard Mr. N.N. Karmakar, learned counsel for the petitioners and Mrs. B. Goyal, learned State counsel, Assam.

In this PIL the petitioners have challenged the legality and validity of the notice of election dated 28.2.2007 issued by the Commissioner appointed by the learned District Judge, Kamrup, Guwahati for holding the election to constitute the management committee of the Hajo Powa Macca Dargah with Khadim and 11(eleven) other members.

The aforesaid notice was issued in terms of the order passed by the learned District Judge, Kamrup, Guwahati. The petitioners though have quashed the authority of the District Judge, has not also challenged the order dated 8.2.2007 passed by the learned District Judge, Kamrup, Guwahati directing for holding the election.

It is stated at the Bar that the term of the earlier elected body has already expired and election for constituting the management of the Dargah is long overdue. The grievance of the petitioners is that the learned District Judge has no jurisdictional authority to direct for holding election of the said Dargah and to interfere with its functioning. The management of the Dargah is running in terms of the scheme prepared as per the judgment and decree passed in Title Suit No. 3/1919 dated 10.6.24 u/s 92 of the C.P.C. In terms of the said judgment, a detailed scheme has been prepared for management of the Dargah in the aforesaid suit. The claim of right of the present petitioners have already been settled in the said suit.

In this PIL, the petitioners have not fully highlighted as to how and in what manner they are aggrieved by election notice issued as per instruction of the learned District Judge although the term of the earlier elected body is already over.

The election of the management body of the Dargah is being conducted under the supervision and direction of the District Judge since the passing of the judgment and decree in Title Suit No. 3 of 1919 and framing of the scheme u/s 92 of the C.P.C. as stated above.

It is also stated by the learned State counsel that in terms of the impugned notice the election to constitute the managing committee has already been held, leaving only to declare the result which could not be done in terms of the interim direction passed in this PIL.

As the election of the managing committee, as per the scheme framed in Title Suit No. 3 of 1919, has already been conducted and the right of petitioners have already been settled in the said suit, we do not see any justifiable reason to keep this petition pending which needs no further adjudication. The grounds agitated by the petitioners do not pertain to public interest to be adjudicated in a PIL.

In view of the aforesaid discussion, this PIL stands closed and the interim order passed earlier on 26.3.2007 stands vacated. The Commissioner is directed to declare the result of the election already held, upon which the new managing committee of the Dargah would be formed for proper and effective management and administration of the Shrine.